

How Do I Protect my Artistic Works?: the nuts and bolts of copyright registration.

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US Federal Copyright Registration

In this session, we will provide an overview of copyright filing forms and links to additional information and resources on copyright issues. A few principles to keep in mind:

- **Copyright exists from the moment of creation if the work is ORIGINAL and FIXED IN A TANGIBLE MEDIUM**
- **File for federal protection within 3 months of “publication”**
- **Filing is electronic and fairly inexpensive (range \$45 to \$65)**
- **If you have to sue someone for infringing your copyright, you will need a federal registration**
- **Due to the Berne Convention, a US registration protects your work in 178 countries worldwide**

- Use this form for registration of published or unpublished **NON-DRAMATIC** literary works
- Form cannot be used to register a “collection” of two or more unpublished works
- Deposit Requirements: One complete copy for unpublished works, two complete copies of the “best edition” of a published work
- “Author” of a work created by an independent contractor
- “Author” of a work created by an employee acting in the scope of his or her employment
- Form available here:
<https://www.copyright.gov/forms/formtx.pdf>

Works of the Visual Arts – Form VA

- Use this form for “pictorial, graphic, or sculptural works” such as two and three dimensional works of fine, graphic, and applied art. Also for photographs, prints, and art reproductions and maps, globes, charts, technical diagrams, and models
- Deposit requirements: Unpublished work: one complete copy. Published work: two copies of the “best edition”.
- Form cannot be used to register a “collection”. To register multiple works, e.g. photos, use the online application for that. (See Circular 34 at www.copyright.gov)
- Form cannot be used to register an architectural work (See Circular 41 at www.copyright.gov)
- Form VA is available here:
<https://www.copyright.gov/forms/formva.pdf>

- Use for works of the performing arts whether prepared for the purpose of being performed directly before an audience (e.g. plays) or indirectly “by means of any device or process”.
- Dramatic works (e.g. screenplay)
- Motion pictures and other audiovisual works
- Pantomimes and choreographic works
- Musical works, including any accompanying lyrics
- Cannot be used to register a “collection”. (See Circular 34 at www.copyright.gov)
- Deposit Requirement: Unpublished work: one complete copy.
Published work: two copies of “best edition”.
- Form available here:
<https://www.copyright.gov/forms/formpa.pdf>

- Use for sound recordings, i.e. works that result from the fixation of musical, spoken, or other sounds (other than recordings which are part of an audiovisual work as a whole)
- May be used where the same copyright holder is seeking protection for the underlying musical, dramatic, or literary work contained in the sound recording.
- Deposit Requirements: Unpublished work: one complete phonorecord. Published work: two phonorecords of the “best edition” together with “any printed or other visually perceptible material” published with the phonorecords.
- Form is available here:
<https://www.copyright.gov/forms/formsr.pdf>
- Comments from the music expert presenter

Single Serials – Form SE

- Use for each individual issue of a “serial”, e.g. a magazine
- Includes newspapers, annuals, society proceedings, periodicals
- Do NOT use Form SE to register individual contributions to a serial publication (may be able to use Form TX.)
- There are some complex ownership issues related to periodicals. If an organization directed, controlled, and supervised the creation of the serial issue as a whole, check the box “collective work.” The term “collective work” means that the author is responsible for compilation and editorial revision and may also be responsible for certain individual contributions to the serial issue.
- Form is available here:
<https://www.copyright.gov/forms/formse.pdf>

- **Visual Artist's Rights Act – enacted in 1990, and grants visual artists “moral rights” in their works.**
- **Among these rights is the right to prevent modifications that are harmful to the artist's reputation, and the right to prevent destruction of works that have achieved “recognized stature”.**
- **When a work is incorporated in a building, a waiver of VARA rights has to be signed in writing with a warning.**
- **Remedies for violation of VARA? – either actual damages and lost profits, or statutory damages**
 - **And enhanced damages for willful violations**

The 5Pointz Case



- **“Aerosol Art” Case in Queens, NY**
- **Artist Cohen cast himself as “Curator” and had a selection process in which he reviewed an aerosol artist’s “portfolio” and the artist’s plan for the 5Pointz project before allowing an artist to paint.**
 - **5Pointz housed “approximately 10,650 works of art” over its lifespan**
 - **Wolcoff owned the building and decided to turn it into luxury apartments. In spite of the Temporary Restraining Order, Wolkoff had the building “whitewashed”. Ultimate verdict against him for willful violation of VARA was \$6.75 Million as to 45 of 49 works of “recognized stature”.**

- **The Indian Arts and Crafts Act (IACA) is primarily a truth-in-advertising law, that allows purchasers to know that an "Indian-made" good is, in fact, made by Indians as defined in the IACA. A seller violates the IACA when they misrepresent a good as Indian-made, when it is not Indian-made.**
- **Indian tribes, individual Indians, or Indian Arts and Crafts Organizations may enforce the IACA through a civil suit. Any award of damages goes back to the plaintiff, minus costs and fees.**
- **The United States may also enforce the IACA through criminal prosecution. Criminal penalties include up to a quarter million dollar fine and five years in prison.**

Question and Answer Period

See also www.copyright.gov